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comprising claims 1, 8-19, 27-31 and 34-37 drawn to polynucleotides. The elected Group I is also subject to election of a single nucleotide sequence. Applicants traverse the proposition that a single sequence is a reasonable number for examination purposes. Applicants understand that this requirement is made solely because of the current inability of the USPTO to carry out its search function. This single sequence requirement places an economic barrier between inventors and the exclusive rights guaranteed by the United States Constitution. An applicant with an invention characterized by nucleic acid or amino acid sequence is practically barred from obtaining exclusive rights to the full scope of his invention unless he has unlimited financial resources to pay an inordinate number of application fees.

Applicants provisionally elect for examination the nucleic acid sequence of SEQ ID NO:4639. Applicants note that amended claim 11 specifies the protein encoded by the elected nucleic acid sequence. Applicant submits that claim 11 is drawn to the presently elected invention of Group I and that search and examination of the present invention should include a search of the nucleic acid sequence and the protein encoded by the sequence.

PRELIMINARY AMENDMENT

Please enter cancel ~~claims 9 and 10~~. Please amend claims 1, 8, 11, 17 and 29 as follows and add new claims 38 and 39. A marked up version of the amended claims also accompanies this response.

AMENDED CLAIMS

B1 Claim 1. (Amended) The substantially purified nucleic acid molecule of Claim 11 wherein said nucleic acid molecule comprises SEQ ID NO: 4639.

B2 Claim 8. (Amended) The substantially purified nucleic acid molecule according to claim 11 wherein said nucleic acid molecule further comprises nucleic acid sequences comprising one or more of a promoter region or regulatory region or parts of said regions.

~~Sub C1~~
Claim 11. (Amended) A substantially purified nucleic acid molecule encoding a nitrate pathway protein comprising the sequence of SEQ ID NO: 11926.

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Claim 17. (Amended) A transformed cell or organism having an exogenous nucleic acid molecule which comprises:

- (a) a promoter region which functions in said cell or organism to cause the production of a mRNA molecule; which is linked to
- (b) a nucleic acid molecule of claim 11.

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Claim 29. (Amended) A primer pair for amplification of a nucleic acid molecule of SEQ ID NO: 4639 wherein each primer in said primer pair comprises at least 15 nucleotides which are identical, homologous or complementary to a sequence of consecutive nucleotides within SEQ ID NO: 4639.

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Claim 38. (Newly added) A substantially purified nucleic acid molecule encoding a nitrate pathway protein, wherein said nucleic acid molecule has at least about 70 percent identity to SEQ ID NO: 4639.

Claim 39. (Newly added) A substantially purified nucleic acid molecule encoding a nitrate pathway protein, wherein said nucleic acid molecule has at least about 90 percent identity to SEQ ID NO: 4639.

No new matter is added by the above amendments to the claims and the examiner is respectfully requested to enter these amendments in the application.

Respectfully submitted,

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Marked-up Version of Amended Claims

Claim 1. (Amended) [A] The substantially purified nucleic acid molecule of Claim 11 [the *Myxococcus xanthus* genome having a nucleic acid sequence selected from the group consisting of SEQ ID NO: 1850 through SEQ ID NO: 9691 and complements thereof] wherein said nucleic acid molecule comprises SEQ ID NO: 4639.

Claim 8. (Amended) The substantially purified nucleic acid molecule according to [claim 1] claim 11 wherein said nucleic acid molecule further comprises nucleic acid sequences comprising one or more of a promoter region or regulatory region or parts of said regions.

Claim 11. (Amended) [The] A substantially purified nucleic acid molecule [according to claim 1, wherein said nucleic acid molecule comprises a gene identified in Table 4 encoding an antibiotic resistance protein, DNA modification enzyme, sigma factor or] encoding a nitrate pathway protein comprising the sequence of SEQ ID NO: 11926.

Claim 17. (Amended) A transformed cell or organism having an exogenous nucleic acid molecule which comprises:

- (a) a promoter region which functions in said cell or organism to cause the production of a mRNA molecule; which is linked to
- (c) a nucleic acid molecule of [claim 1] claim 11.

Claim 29. (Amended) A primer pair for amplification of a nucleic acid molecule of SEQ ID NO: 4639 [1850 through SEQ ID NO: 9691] wherein each primer in said primer pair comprises at least 15 nucleotides which are identical, homologous or complementary to a sequence of consecutive nucleotides within [any of SEQ ID NO: 1850 through] SEQ ID NO: 4639 [9691].

Claim 38. (Newly added) A substantially purified nucleic acid molecule encoding a nitrate pathway protein, wherein said nucleic acid molecule has at least about 70 percent identity to SEQ ID NO: 4639.

Claim 39. (Newly added) A substantially purified nucleic acid molecule encoding a nitrate pathway protein, wherein said nucleic acid molecule has at least about 90 percent identity to SEQ ID NO: 4639.